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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

UNCLAS STATE 028823

E.O. 12065: NA

TAGS: ETRD, PGOV, EINV, JA

SUBJECT: FOREIGN MINISTRY INTEREST IN DISCRIMINATION CASE,
LISA M. AVIGLIANO, ET AL., AGAINST SUMITOMO SHOJI AMERICA
INC.

FOLLOWING AS A REPEAT TOKYO 16091

QUOTE R 100925Z SEP 79

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 1326

UNCLASS TOKYO 16091

E.O. 12065: NA

TAGS: ETRD, PGOV, EINV, JA

SUBJECT: FOREIGN MINISTRY INTEREST IN DISCRIMINATION CASE,
LISA M. AVIGLIANO, ET AL., AGAINST SUMITOMO SHOJI AMERICA
INC.

REF: STATE 227464

1. THE FOREIGN MINISTRY OFFICIALS WITH WHOM WE HAVE BEEN
DISCUSSING THE AVIGLIANO CASE APPRECIATED THE INFORMATION

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PROVIDED IN THE REFTTEL. WE EXPLAINED TO THEM WHY WE
BELIEVE A BROAD INTERPRETATION OF TREATIES OF FRIENDSHIP
COMMERCE AND NAVIGATION IS IN THE INTEREST OF BOTH THE
UNITED STATES AND JAPAN, BUT THEY OFFERED NO COMMENT. THE
FOREIGN MINISTRY'S INITIAL RESEARCH INDICATES THAT
APANESE COURTS NEVER HAVE CONSTRUED THE FCN TREATY. THE
MINISTRY APPARENTLY BASED ITS DECISION ON SUMITOMO SHOJI
ON A 1975 IMMIGRATION CASE, WHICH NEVER WENT TO COURT,
INVOLVING A U.S. CITIZEN, MELVIN CRONIN. CRONIN APPARENTLY
APPLIED FROM A JAPANESE RESIDENCE VISA TO WORK FOR A U.S.
SUBSIDIARY INCORPORATED IN JAPAN. THE IMMIGRATION
AUTHORITIES REFUSED THE VISA BECAUSE THEY DID NOT RECOGNIZE
THE SUBSIDIARY AS A U.S. COMPANY ENTITLED TO THE RIGHTS
AND PRIVILEGES DEFINED IN THE FCN TREATY. AFTER SOME
DISCUSSION BETWEEN U.S. AND JAPANESE OFFICIALS, THE
JAPANESE IMMIGRATION AUTHORITIES FOUND A WAY TO
CRONIN A VISA BUT THEY DID NOT CONCEDE THE PRINCIPLE.

ACCORDING TO THE FOREIGN MINISTRY, THE DEPARTMENT'S OFFICE

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REVIEWED BY *[Signature]* DATE 9-30-88

DEPARTMENT OF STATE A/C/S/MR

FOI EXEMPTIONS

RELEASED ☐ EXEMPTED ☐ RELEASED ☐

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OF THE LEGAL ADVISER IS AWARE OF THE CRONIN CASE.

2. WE HAVE OBTAINED FROM THE FOREIGN MINISTRY COPIES OF JAPAN'S COMMERCIAL TREATIES WITH CANADA, GERMANY (SIGNED IN 1927), THE UK AND THE PHILIPPINES. THE TREATY WITH CANADA IS RESTRICTED TO TRADE AND DOES NOT DISCUSS INVESTMENT OF THE RIGHTS OF COMPANIES. WE HAVE NOT EXAMINED THE TREATY WITH GERMANY CAREFULLY BECAUSE IT IS NOT IN ENGLISH. BOTH THE PHILIPPINE AND THE UK TREATIES WERE SIGNED AFTER THE TREATY WITH THE U.S. AND PROVIDE FOR MFN TREATMENT. THE UK TREATY PROVIDES:
ARTICLE 6(1) THE COMPANIES OF ONE CONTRACTING PARTY SHALL IN ANY TERRITORY OF THE OTHER BE ACCORDED TREATMENT NOT

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LESS FAVOURABLE THAN THAT ACCORDED TO THE COMPANIES OF ANY OTHER FOREIGN COUNTRY IN ALL MATTERS RELATIVE TO THE CARRYING ON OF ALL KINDS OF BUSINESS, INCLUDING FINANCE, COMMERCE, INDUSTRY, BANKING, INSURANCE, SHIPPING AND TRANSPORT, AS WELL AS IN ALL MATTERS RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE FOR SUCH PURPOSE OF BRANCHES, AGENCIES, OFFICES, FACTORIES AND OTHER ESTABLISHMENTS APPROPRIATE TO THE CONDUCT OF THEIR BUSINESS.

3. WE ARE MAILING THROUGH THE APO COPIES OF THE TREATIES MENTIONED ABOVE TO MARTHA DEWITT IN EA/J. WE WILL REMAIN IN CONTACT WITH THE FOREIGN MINISTRY ON THE AVIGLIANO CASE AND WILL REPORT ANY PERTINENT COMMENTS BY THE MINISTRY.

MANSFIELD END QUOTE. HAIG

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